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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 15th December, 2000:—

I

BILL No. LXXVII OF 2000

A Bill to repeal the Vaccination Act, 1880.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. This Act may be called the Vaccination (Repeal) Act, 2000.
2. The Vaccination Act, 1880 is hereby repealed.

Short title.

Repeal of Act
13 of 1880.

STATEMENT OF OBJECTS AND REASONS

The Vaccination Act, 1880 pertains to small-pox vaccination. Small-pox was once a major killer throughout the world. A vast international campaign by the World Health Organisation between the years 1967 and 1979 led to the eradication of small-pox. On 5th July, 1975, India was proclaimed to be no longer a small-pox endemic country and in April, 1977 India was declared small-pox free by International Commission for Assessment of Small-pox Eradication. On 8th May, 1980 the World Health Organisation declared the global eradication of small-pox. All member States of the World Health Organisation had officially discontinued compulsory vaccination of small-pox with effect from 1982. The Commission on Review of Administrative Laws under the Chairmanship of Shri P.C. Jain has, *inter alia*, recommended the repeal of the Vaccination Act, 1880. The Vaccination Act, 1880 is no longer relevant and needs to be repealed.

2. The Bill seeks to repeal the aforesaid Act.

C. P. THAKUR.

II

BILL No. LXXVI OF 2000

A Bill further to amend the Indian Divorce Act, 1869.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Divorce (Amendment) Act, 2000.

Short title,
and com-
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

4 of 1869.

2. In section 1 of the Indian Divorce Act, 1869 (hereinafter referred to as the principal Act), the word "Indian" shall be omitted.

Amendment
of section 1.

3. In section 3 of the principal Act, clauses (6) and (7) shall be omitted.

Amendment
of section 3.

Substitution of new section for section 10.

4. For section 10 of the principal Act, the following section shall be substituted, namely:—

Grounds for dissolution of marriage.

“10. (1) Any marriage solemnized whether before or after the commencement of the Indian Divorce (Amendment) Act, 2000 may, on a petition presented to the District Court either by the husband or the wife, be dissolved on the ground that since the solemnization of the marriage, the respondent—

(i) has been guilty of adultery;

(ii) has changed her or his profession of Christianity for the profession of some other religion and gone through a form of marriage with another man or woman, as the case may be;

(iii) has treated the petitioner with such cruelty as to cause a reasonable apprehension in the mind of the petitioner that it would be harmful or injurious for the petitioner to live with the respondent;

(iv) has deserted the petitioner for at least two years immediately preceding the presentation of the petition.

(2) A wife may also present a petition for the dissolution of her marriage by a decree of divorce on the ground that the husband has, since the solemnization of the marriage, been guilty of rape, sodomy or bestiality.”.

Substitution of new section for section 11.

5. For section 11 of the principal Act, the following section shall be substituted, namely:—

Adulterer or adulteress to be co-respondent.

“11. On a petition for dissolution of marriage presented by a husband or wife on the ground of adultery, the petitioner shall make the alleged adulterer or adulteress a co-respondent, unless the petitioner is excused by the Court from so doing on any of the following grounds, namely:—

(a) that the wife, being the respondent is leading the life of a prostitute or the husband, being respondent is leading an immoral life and that the petitioner knows of no person with whom the adultery has been committed;

(b) that the name of the alleged adulterer or adulteress is unknown to the petitioner although the petitioner has made due efforts to discover it;

(c) that the alleged adulterer or adulteress is dead.”.

Amendment of section 13.

6. In section 13 of the principal Act, the last paragraph shall be omitted.

Amendment of section 14.

7. In section 14 of the principal Act, in paragraph 4, the words “in the manner and subject to all the provisions and limitations in sections sixteen and seventeen made and declared” shall be omitted.

Amendment of section 15

8. In section 15 of the principal Act,—

(a) the words “without reasonable excuse” shall be omitted;

(b) for the words “her adultery and cruelty”, the words “her adultery or cruelty or desertion” shall be substituted;

(c) for the words “such cruelty”, the words “such adultery, cruelty” shall be substituted.

Amendment of section 16.

9. In section 16 of the principal Act, the words “, not being a confirmation of a decree of a District Court,” shall be omitted.

10. For section 17 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 17.

“17. During the progress of the suit in the Court of the District Judge, any person suspecting that any party to the suit are or have been acting in collusion for the purpose of obtaining a divorce, shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to apply to the High Court to remove the suit under section 8, and the Court shall thereupon, if it think fit, remove such suit and try and determine the same as a court of original jurisdiction, and the provisions contained in section 16 shall apply to every suit so removed; or it may direct the District Judge to take such step in respect of the alleged collusion as may be necessary, to enable him to make a decree in accordance with the justice of the case.”.

Power of High Court to remove certain suits.

11. Section 17A of the principal Act shall be omitted.

Omission of section 17A.

12. In section 18 of the principal Act, the words “or to the High Court” shall be omitted.

Amendment of section 18.

13. In section 19 of the principal Act, in the last paragraph, for the words “jurisdiction of the High Court”, the words “jurisdiction of the District Court” shall be substituted.

Amendment of section 19.

14. Section 20 of the principal Act shall be omitted.

Omission of section 20.

15. In section 22 of the principal Act, the words “without reasonable excuse” shall be omitted.

Amendment of section 22.

16. In sections 23, 27 and 32 of the principal Act, the words “or the High court” shall be omitted.

Amendment of sections 23, 27 and 32.

17. For section 34 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 34.

“34. (1) A husband or wife may, either in a petition for dissolution of marriage or for judicial separation, or in a petition to the District Court, limited to such object only, claim damages from any person on the ground, of his having committed adultery with the wife of such petitioner; or her having committed adultery with the husband of such petitioner, as the case may be.

Damages from adulterer or adulteress.

(2) A petition under sub-section (1) shall be served on the alleged adulterer and the wife or the alleged adulteress and the husband, as the case may be, unless the Court dispenses with such services or directs some other service to be substituted.

(3) The damages to be recovered on any petition under sub-section (1) shall be ascertained by the said Court, although the respondent or either of them may not appear.

(4) After the decision has been given, the Court may direct in what manner such damages shall be paid or applied.”.

18. For section 35 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 35.

“35. (1) Whenever, in any petition presented by a husband or wife, the alleged adulterer or adulteress, as the case may be, has been made a co-respondent, and the adultery has been established, the Court may order the co-respondent to pay:

Power to order adulterer or adulteress to pay costs.

Provided that the co-respondent shall not be ordered to pay the petitioner's cost—

(a) if the respondent was, at the time of adultery, living apart from her

husband and leading the life of a prostitute or from his wife and was leading an immoral life, as the case may be; or

(b) if the respondent had not, at the time of adultery, reason to believe the respondent to be a married woman or married man.

(2) Whenever any application is made under section 17, the court, if it thinks that the applicant had no grounds or no sufficient grounds for intervening, may order him to pay the whole or any part of the costs occasioned by the application.”.

Amendment of
section 36.

19. In section 36 of the principal Act, in the proviso, the words “or is confirmed, as the case may be” shall be omitted.

Amendment of
section 37.

20. In section 37 of the principal Act, for the portion beginning with the words “The High Court” and ending with the words “the husband shall”, the words “Where a decree of dissolution of the marriage or a decree of judicial separation is obtained by the wife, the District Court may order that the husband shall” shall be substituted.

Amendment of
section 40.

21. In section 40 of the principal Act, for the portion beginning with the words “The High Court” and ending with the words “may inquire into”, the words “The District Court may, before passing a decree for dissolution of the marriage or a decree of nullity of marriage, inquire into” shall be substituted.

Amendment of
section 43.

22. In section 43 of the principal Act, for the portion beginning with the words “In any suit for obtaining” and ending with the words “deems proper”, the words “In any suit for obtaining a dissolution of marriage or a decree of nullity of marriage instituted in a District Court, the Court may before making its decree from time to time make such interim orders as it may deem proper” shall be substituted.

Amendment of
section 44.

23. In section 44 of the principal Act, for the portion beginning with the words “The High Court” and ending with the words “may upon application”, the words “Where a decree of dissolution or nullity of marriage has been passed, the District Court may, upon application” shall be substituted.

Amendment of
section 45.

24. In section 45 of the principal Act, for the words “Code of Civil Procedure”, the words and figures “Code of Civil Procedure, 1908” shall be substituted.

5 of 1908.

Amendment of
section 52.

25. In section 52 of the principal Act, for the portion beginning with the words “by a wife” and ending with the words “without reasonable excuse”, the words “by a husband or a wife, praying that his or her marriage may be dissolved by reason of his wife on her husband, as the case may be, having been guilty of adultery, cruelty or desertion” shall be substituted.

Amendment of
section 55.

26. In section 55 of the principal Act,—

(a) the first proviso shall be omitted;

(b) in the second proviso, for the words “Provided also”, the words “Provided” shall be substituted.

Substitution of
new section for
section 57.

27. For section 57 of the principal Act, the following section shall be substituted, namely:—

Liberty to parties
to marry again.

“57. Where a decree for dissolution or nullity of marriage has been passed and either the time for appeal has expired without an appeal having been presented to any court including the Supreme Court or an appeal has been presented but has been dismissed and the decree or dismissal has become final, it shall be lawful for either party to the marriage to marry again.”.

- 5 of 1908. **28.** In section 62 of the principal Act, for the words "Code of Civil Procedure", the words and figures "Code of Civil Procedure, 1908" shall be substituted. Amendment of section 62.
- 16 & 17 Geo. 5, c. 40, 3 and 4 Geo. IV C.35, 9 Geo. VI C.51. **29.** The Indian and Colonial Divorce Jurisdiction Act, 1926, the Indian and Colonial Divorce Jurisdiction Act, 1940 and the Indian Divorce Act, 1945 are hereby repealed. Repeal.

STATEMENT OF OBJECTS AND REASONS

The Law Commission of India in its 164th Report on "The Indian Divorce Act (IV of 1869)" presented to the Government in November, 1998 has, *inter alia*, recommended that Parliament may enact a comprehensive law governing marriage and divorce and other allied aspects of the Christians in India. The Commission, relying on the judgments and observations of certain High Courts, has also urged the Central Government to take immediate measures—

(i) to amend section 10 of the Indian Divorce Act, 1869 relating to grounds of dissolution of marriages so that the female spouses are not discriminated *vis a vis* male spouses in obtaining a decree of dissolution of marriage;

(ii) to amend suitably sections 17 and 20 of the Act to do away with the procedural requirement of obtaining confirmation from the High Court in respect of a decree of dissolution of marriage or decree of nullity of marriage as such a procedure is long-drawn and strenuous.

2. With a view to ascertaining the views of the Christian community on proposal for a unified law on marriage and divorce, the Central Government convened a meeting of leaders of prominent Churches in India and the Members of Parliament belonging to the Christian community on the 28th April, 2000 but there was no consensus for bringing in a comprehensive legislation on Christian marriages and matrimonial causes. However, there is no opposition from any one to amend sections 10, 17 and 20 of the Indian Divorce Act, 1869 suitably to remove the gender inequality as contained in section 10 and to do away with the procedural delays in obtaining divorce due to the provisions contained in sections 17 and 20 of the Act. The Government, therefore, proposes to make suitable changes in the Indian Divorce Act, 1869 for removing hardship to all concerned.

3. The Commission on Review of Administrative Laws which was set up by the Central Government on the 8th May, 1998 has, *inter alia*, recommended repeal of various enactments including three British Statutes relating to Christian Personal Law still in force. It is proposed to repeal these enactments also as they have become obsolete.

4. This Bill seeks to achieve the above objects.

ARUN JAITLEY.

Notes on clauses

Clause 1.—This clause provides for short title and commencement of the Bill.

Clause 2.—This clause seeks to amend the short title of the Indian Divorce Act, 1869 (hereafter referred to as the Act) so as to omit the word “Indian” occurring therein. This is in tune with the recent legislative practice of not using the word “Indian” in the short titles of Parliamentary legislation.

Clause 3.—It is proposed to remove gender inequality in the matter of grounds of divorce as available to husband and wife under section 10 of the Act by substituting that section *vide* clause 4 of the Bill. As the expressions “incestuous adultery” and “bigamy with adultery” as occurring in section 10 of the Act will no longer be in the said section, these expressions have become redundant. This clause, therefore, seeks to omit the definitions of those expressions.

Clause 4.—This clause seeks to provide the grounds of dissolution of marriage. Existing provisions of section 10 of the Act make a distinction between the husband and the wife in the matter of grounds on which they could obtain dissolution of marriage. While adultery, without any other ground, is a ground for seeking dissolution of marriage by the husband, in the case of the petition by the wife, there is in addition another requirement that it should be incestuous adultery or bigamy with adultery or adultery coupled with cruelty or desertion for two years. Certain High Courts including the High Court of Kerala have struck down the words “incestuous” and “adultery coupled with” in section 10 on the ground of gender inequality. This clause seeks to substitute the said section 10 with a new section providing same grounds for husband and wife for seeking dissolution of marriage. However, a wife may also get divorce on the ground that the husband has since the solemnization of marriage been guilty of rape, sodomy or bestiality.

At present a petition for dissolution of marriage could be presented either to the District Court or to the High Court. It is proposed that the petition may henceforth be presented to the District Court only.

Clause 5.—This clause seeks to substitute existing section 11 with the addition of the words “or adulteress” to cover cases where the wife sues the husband for divorce on the ground of adultery. The amendment is consequential to the amendments made in the grounds of divorce under section 10.

Clause 6.—This clause seeks to amend section 13 of the Act so as to do away with the enabling provision for presenting a petition for dissolution of marriage to the High Court after such a petition has been dismissed by the District Court.

Clause 7.—This clause seeks to amend section 14 of the principal Act. The amendment is consequential to the amendments made in sections 16 and 17 of the Act.

Clause 8.—This clause seeks to amend section 15 of the Act. The amendments are consequential to the changes made in the grounds of divorce under section 10.

Clause 9.—This clause seeks to amend section 16 of the Act. The amendment is consequential to the amendments made in section 17 of the Act to do away with the requirement of confirmation of decree of District Court by the High Court.

Clause 10.—This clause seeks to substitute section 17 relating to confirmation of decree for dissolution of marriages made by a District Judge by the High Court. At present every decree for a dissolution of marriage made by a District Judge is subject to confirmation by the High Court. In order to obviate the procedural delay and consequential hardship

to the estranged couples, this clause seeks to do away with the requirement of confirmation by the High Court of such decrees. The amendment is on the lines suggested by the Law Commission of India in its 164th Report.

Clause 11.—This clause seeks to omit section 17A of the Act relating to appointment of officers to exercise duties of King's Proctor as it has become obsolete.

Clause 12.—This clause seeks to amend section 18 of the Act relating to petition for decree of nullity. The omission of the words "or to the High Court" as proposed in this clause is consequential to the amendment proposed in section 10.

Clause 13.—This clause seeks to amend section 19 of the Act as consequential to the amendment made in section 10 as regards the court in which petition may be presented.

Clause 14.—This clause seeks to omit section 20 of the Act relating to confirmation of decree of nullity of marriage by a District Judge. At present, every decree of nullity of marriage made by a District Judge shall be subject to confirmation by the High Court. In order to simplify the procedure and obviate delay and consequential hardship to estranged couples, it is proposed to do away with the requirement of confirmation.

Clause 15.—This clause seeks to amend section 22 of the Act. The amendment is consequential to the changes made in section 10.

Clause 16.—This clause seeks to omit the words "or the High Court" occurring in sections 23, 27 and 32 of the Act as consequential to changes made in section 10 relating to the court in which petitions could be made.

Clause 17.—This clause provides for damages from adulterer or adulteress. While following the existing provisions of section 34 of the Act, it is proposed to allow the wife also to claim damages from the adulteress. This is consequential to the changes made in section 10 of the Act.

Clause 18.—This clause seeks to substitute section 35 of the Act so as to make provision for the adulterer as well as the adulteress to pay costs. The changes are consequential to the changes made in section 10.

Clauses 19 to 23.—The amendments suggested in these clauses are consequential to the changes made in sections 10 and 17 of the Act.

Clause 24.—This clause seeks to amend section 45 of the Act relating to application of the Code of Civil Procedure by specifying the particulars of the present Code.

Clause 25.—This clause seeks to amend section 52 of the Act as consequential to the changes made in section 10.

Clause 26.—This clause seeks to amend section 55 of the Act so as to allow an appeal from a decree of a District Judge for dissolution of marriage or nullity of marriage.

Clause 27.—This clause seeks to substitute section 57 of the Act specifying the circumstances under which the parties to a marriage which has been dissolved could marry again.

Clause 28.—The amendment proposed in this clause is similar to the one proposed in clause 24.

Clause 29.—This clause seeks to repeal certain British statutes which have become obsolete and recommended to be repealed by the Commission on Review of Administrative Laws.

III

BILL NO. LXXIX OF 2000

A Bill to establish a Haj Committee of India and State Haj Committees for making arrangements for the pilgrimage of Muslims for Haj. and for matters connected therewith.

BE it enacted by Parliament in the Fifty-first year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Haj Committee Act, 2000.

Short title and
commence-
ment

(2) It shall come into force on such date or dates as the Central Government may, by notification, appoint, and different dates may be appointed for different provisions of this Act and for different States.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “bye-laws” means bye-laws made under section 45;

(b) “Chief Executive Officer or the Executive Officer” means the Chief Executive Officer of the Committee or the Executive Officer of the State Committee appointed under sub-section (1) of section 16 or sub-section (1) of section 29, as the case may be;

- (c) "Committee" means the Haj Committee of India constituted under section 3;
- (d) "member" means a member of the Haj Committee of India nominated under section 4 or of a State Haj Committee nominated under section 18, as the case may be, and includes the Chairperson and a Vice-Chairperson;
- (e) "notification" means a notification published in the Official Gazette of India or the Official Gazette of a State, as the case may be;
- (f) "pilgrim" means a Muslim proceeding to, or returning from, Haj;
- (g) "prescribed" means prescribed by rules made under section 44 by the Central Government or, as the case may be, under section 47 by the State Government;
- (h) "State Committee" means a State Haj Committee constituted under section 18 and includes a Joint State Committee;
- (i) "State Government", in relation to a Union territory, means the Administrator of that Union territory appointed by the President under article 239 of the Constitution.

CHAPTER II

HAJ COMMITTEE OF INDIA

Constitution
and incorpora-
tion of the Haj
Committee of
India

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted a Committee by the name of the Haj Committee of India.

(2) The Committee shall be a body corporate, by the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, to create a charitable trust or endowment, and to contract and shall by the said name sue and be sued.

(3) The Committee shall have its headquarters at New Delhi and the existing office of the "Haj Committee" at Mumbai constituted under the Haj Committee Act, 1959 shall function as the regional office of the Committee till such time as it may be considered necessary by the Committee.

51 of 1959.

Composition
of Committee.

4. The Committee shall consist of the following members, namely:—

(i) three members of Parliament of whom two are to be nominated by the Speaker of the House of the People from among its Muslim members, and one by the Chairman of the Council of States from among its Muslim members;

Provided that a Member of Parliament shall, upon ceasing to be a member, cease to be a member of the Committee and the Speaker of the House of the People or the Chairman of the Council of States, as the case may be, shall make a fresh nomination upon request by the Central Government.

(ii) six Muslim members of the Committee shall be elected, one from each zone as specified in the Schedule, in such manner as may be prescribed.

(iii) four persons not below the rank of Joint Secretary to the Government of India nominated by that Government to represent the Ministries of External Affairs, Home, Finance and Civil Aviation, as, *ex officio* members;

(iv) six Muslim members shall be nominated by the Central Government from among the following categories of persons, namely:—

(a) two members who have special knowledge of public administration, finance, education, culture or social work and out of whom one shall be a Shia Muslim;

(b) a woman member;

(c) three members who have special knowledge of Muslim theology and law, out of them one shall be a Shia Muslim.

5. As soon as may be after the nomination of the members of the Committee under section 4, the Central Government shall publish in the Official Gazette the names of all such members.

Notification of members

6. (1) The term of office of the members of the Committee (other than the *ex officio* members and members filling casual vacancies) shall be not less than three years, commencing on the day following the publication of the list of members under section 5:

Term of office.

Provided that the term of the members of the Committee may be extended by the Central Government by a notification in the Official Gazette for a period not exceeding six months at a time but, in any case, not exceeding beyond a total period of one year.

(2) The allowances payable to, and the other terms and conditions of the Chairperson, Vice-Chairpersons and members shall be such as may be prescribed.

7. (1) After the publication of the names of members of the Committee under section 5, the Central Government shall convene the first meeting of the Committee at which the Committee shall elect a Chairperson and two Vice-Chairpersons from amongst its members.

Chairperson and Vice-Chairpersons.

(2) If the Committee fails to elect a Chairperson or Vice-Chairpersons the Central Government may appoint a member of the Committee to be the Chairperson thereof or Vice-Chairpersons, as the case may be.

(3) The Chairperson shall exercise such powers and discharge such duties as may be prescribed.

(4) The Vice-Chairpersons shall exercise such powers and discharge such duties as may be determined by bye-laws made in this behalf by the Committee.

(5) The election of the Chairperson and the Vice-Chairpersons shall be notified by the Central Government in the Official Gazette.

(6) The term of office of the Chairperson and the Vice-Chairpersons, as the case may be, shall be for a period of three years and no person shall hold office of the Chairperson or of the Vice-Chairperson, as the case may be, for more than two consecutive terms.

(7) Any casual vacancy in the office of the Chairperson or a Vice-Chairperson shall be filled in accordance with sub-section (1) or sub-section (2), as the case may be.

8. (1) The Central Government shall take or cause to be taken all necessary steps for the reconstitution of a New Committee at least four months before the expiry of the term, or the extended term, as the case may be, of the Committee.

Reconstitution of Committee.

(2) An outgoing member shall be eligible for renomination on the Committee for not more than two terms:

Provided that not more than fifty per cent. of the members may be re-nominated for a second term in such manner as may be prescribed.

9. (1) The duties of the Committee shall be—

Duties of Committee

(i) to collect and disseminate information useful to pilgrims, and to arrange orientation and training programmes for pilgrims;

(ii) to advise and assist pilgrims during their stay at the embarkation points in India, while proceeding to or returning from pilgrimage, in all matters including vaccination, inoculation, medical inspection, issue of pilgrim passes and foreign exchange, and to liaise with the local authorities concerned in such matters;

(iii) to give relief to indigent pilgrims;

(iv) to finalise the annual Haj plan with the approval of the Central Government, and execute the plan, including the arrangements for travel by air or any other means, and to advise in matters relating to accommodations;

(v) to approve the budget estimates of the Committee and submit it to the Central Government at least three months before the beginning of the financial year for its concurrence;

(vi) to negotiate and co-operate with railways, airways and travel agencies for the purpose of securing travelling facilities for pilgrims;

(vii) to generally look after the welfare of the pilgrims;

(viii) to publish such proceedings of the Committee and such matters of interest to pilgrims as may be determined by bye-laws made in this behalf by the Committee;

(ix) to discharge such other duties in connection with Haj as may be prescribed by the Central Government.

(2) The Central Government shall afford all reasonable assistance to the Committee in the discharge of the duties specified in sub-section (1).

Meetings of
Committee.

10. (1) The Committee shall meet at least three times in a year before the commencement of the Haj season to plan and make arrangements for Haj and once after that to review all arrangements made by the Committee.

(2) In addition to the meetings specified in sub-section (1), the Committee may hold meetings as and when requisitioned by at least one-third of its members or when considered necessary by the Chairperson.

(3) The number of members required to make a quorum at any meeting of the Committee shall be one-third of its members.

(4) All matters shall be decided by a majority of votes of the members present and, in the event of an equality of votes, the Chairperson or other person presiding shall have a casting vote.

(5) The Committee shall observe such rules of procedure in regard to the transaction of business at its meetings as may be determined by bye-laws.

Appointment
of Standing
Committees
and sub-
committees.

11. (1) The Committee shall appoint three Standing Committees to deal with matters relating to finance, transport and pilgrims' welfare from amongst its members consisting of not more than five members each, with such powers and functions as may be determined by bye-laws made in this behalf by the Committee.

(2) The Committee may also appoint other sub-committees for such purposes as it may think fit and any such sub-committee shall consist of such number of members and other persons as may be determined by bye-laws made in this behalf by the Committee.

Disqualifica-
tion for being
appointed, or
for continuing
as a member
of Committee.

12. A person shall be disqualified for being nominated, or for continuing as a member of the Committee, if he—

(i) is not a citizen of India;

(ii) is not a Muslim, except for *ex officio* members as provided in clause (iii) of sub-section (1) of section 4;

(iii) is less than twenty-five years of age;

(iv) is of unsound mind and stands so declared by a competent court;

(v) is an undischarged insolvent;

(vi) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude;

(vii) has been on a previous occasion—

(a) removed from his office as a member; or

(b) removed by an order of a competent authority either for not acting in the interest of the pilgrims or for corruption.

13. The Chairperson, the Vice-Chairperson or any other member may resign his office by writing under his hand addressed to the Central Government and it shall be effective from the date of such resignation.

Resignation of
Chairperson,
Vice-
Chairperson
and members.

14. (1) The Central Government may, by notification in the Official Gazette, remove the Chairperson, a Vice-Chairperson of the Committee or any member thereof, if he—

Removal of
Chairperson,
Vice-
Chairperson
and members.

(i) is or becomes subject to any of the disqualifications specified in section 12; or

(ii) refuses to act or is incapable of acting or acts in a manner which the Central Government, after hearing any explanation that he may offer, considers to be prejudicial to the interests of the Committee or the interests of the pilgrims; or

(iii) fails in the opinion of the Committee, to attend three consecutive meetings of the Committee, without sufficient excuse.

(2) Where the Chairperson or a Vice-Chairperson of the Committee is removed under sub-section (1), he shall also cease to be a member of the Committee.

15. (1) When the seat of a member becomes vacant by his removal, resignation, death or otherwise, a new member shall be nominated in his place and such member shall hold office so long as the member whose place he fills would have been entitled to hold office if such vacancy had not occurred.

Filling of a
casual
vacancy.

(2) Any casual vacancy under sub-section (1) shall be filled up by the same category to which the former member belonged.

16. (1) The Central Government shall appoint a person, from a panel of Muslim officers of the Central Government and of the State Governments not below the rank of Deputy Secretary to the Government of India, to be the Chief Executive Officer of the Committee on such terms and conditions as may be prescribed.

Chief
Executive
officer and
other
employees.

(2) The Chief Executive Officer shall be the *ex officio* Secretary of the Committee.

(3) The Chief Executive Officer shall be appointed for a period of three years, which may be extended by a maximum period of one year by the Central Government.

(4) The Chief Executive Officer shall execute the decisions of the Committee and perform such other functions as may be prescribed.

(5) The Chief Executive Officer shall be responsible to the Central Government and shall be under its administrative control.

(6) The Committee may, with the previous sanction of the Central Government, employ such other officers and employees as it deems necessary to carry out the purposes of this Act, on such terms and conditions as may be prescribed.

CHAPTER III

STATE HAJ COMMITTEES

17. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, the Government of a State shall constitute a Committee by the name of the[name of the State] Haj Committee:

Establishment
and
incorporation
of State Haj
Committee.

Provided that in case it appears to the Central Government for any reasons that it is

not necessary for a State or Union territory to establish a Haj Committee, it may authorise the State Haj Committee of a contiguous State to deal with those pilgrims and suggest suitable representation of those States and Union territories.

(2) Notwithstanding anything contained in this Act, an agreement may be entered into—

(a) by two or more Governments of contiguous States, or

(b) by the Central Government (in respect of one or more Union territories) and one or more Governments of States contiguous to such Union territory or Union territories,

to be in force for such period and to be subject to renewal for such further period, if any, as may be specified in the agreement to provide for the constitution of a Joint State Committee,—

(i) in a case referred to in clause (a), for all the participating States, and

(ii) in a case referred to in clause (b), for the participating Union territory or Union territories and the State or States.

(3) An agreement under this section shall be published, in a case referred to in clause (a) of sub-section (2), in the Official Gazette of the participating States and in a case referred to in clause (b) of that sub-section, in the Official Gazette of the participating Union territory or Union territories and participating State or States.

(4) Any reference in this Act to the State Committee shall, unless the context otherwise requires, be construed as including a Joint State Committee.

Composition of
State
Committee.

18. (1) A State Committee shall consist of thirteen members, to be nominated by the State Government, namely:—

(i) three members from the Muslim members of—

(a) Parliament representing the State;

(b) State Legislative Assembly; and

(c) Legislative Council, where it exists;

(ii) three members from Muslim members representing local bodies in the State;

(iii) three members having expertise in Muslim theology and law including one who shall be a Shia Muslim;

(iv) two members representing Muslim voluntary organisations working in the fields of public administration, finance, education, culture or social work;

(v) the Chairperson of the State Wakf Board; and

(vi) Executive Officer of the State Committee, who shall be the *ex officio* member of the State Committee:

Provided that a Committee for any Union territory or a Joint State Committee shall consist of such number of members as may be prescribed.

(2) In case where there is no Muslim member in any of the categories mentioned in clauses (i) and (ii) of sub-section (1), or where there is no Legislative Council in a State, nomination may be made in such manner as may be prescribed.

Notification of
members.

19. As soon as may be after the nomination of the members of a State Committee under sub-section (1) of section 18, the State Government shall publish in the Official Gazette of that State the names of all such members.

20. (1) The term of office of the members of the State Committee (other than the *ex officio* members and members filling casual vacancies) shall be not less than three years, commencing on the day following the publication of the list of members under section 19.

Term of office.

(2) The allowances payable to, and the other terms and conditions of the Chairperson and members shall be such as may be prescribed.

21. (1) After the publication of the names of members of the State Committee under section 19, the State Government shall convene the first meeting of the State Committee at which the State Committee shall elect a Chairperson from amongst its members.

Chairperson.

(2) If the State Committee fails to elect a Chairperson, the State Government may appoint a member of the State Committee to be the Chairperson thereof.

(3) The election of the Chairperson shall be notified by the State Government in the Official Gazette of the State.

(4) The term of office of the Chairperson shall be three years and no person shall hold office of the Chairperson for more than two consecutive terms.

(5) Any casual vacancy in the office of the Chairperson shall be filled in accordance with sub-section (1) or sub-section (2), as the case may be.

22. (1) The State Government shall take or cause to be taken all necessary steps for the reconstitution of a new State Committee at least four months before the expiry of the term of the State Committee.

Reconstitution of a State Committee.

(2) An outgoing members shall be eligible for re-nomination of the State Committee for not more than two terms:

Provided that fifty per cent. of the nominees may be re-nominated for a second term in such manner as may be prescribed.

23. A person shall be disqualified for being nominated, or for continuing as a member of the State Committee, if he—

Disqualification for being appointed, or for continuing as a member of the Committee.

(i) is not a citizen of India;

(ii) is not a Muslim, except for an Executive Officer as provided in clause (vi) of sub-section (1) of section 18;

(iii) is less than twenty-five years of age;

(iv) is of unsound mind and stands so declared by a competent court;

(v) is an undischarged insolvent;

(vi) has been convicted of an offence which, in the opinion of the State Government, involves a moral turpitude;

(vii) has been on a previous occasion—

(a) removed from his office as a member; or

(b) removed by an order of a competent authority either for not acting in the interest of the pilgrims or for corruption.

24. The Chairperson or any other member may resign his office by writing under his hand addressed to the State Government and it shall be effective from the date of such resignation.

Resignation of Chairperson and members.

25. (1) The State Government may, by notification in the Official Gazette, remove the Chairperson of the State Committee or any member thereof, if he—

Removal of Chairperson and members.

(i) is or becomes subject to any of the disqualifications specified in section 23;

or

(ii) refuses to act or is incapable of acting or acts in a manner which the State Government, after hearing any explanation that he may offer, considers to be prejudicial to the interests of the State Committee or the interests of the pilgrims; or

(iii) fails in the opinion of the State Committee, to attend three consecutive meetings of the State Committee, without sufficient excuse.

(2) Where the Chairperson of the State Committee is removed under sub-section (1), he shall also cease to be a member of the State Committee.

Filling up of a
casual
vacancy.

26. (1) When the seat of a member becomes vacant by his removal, resignation, death or otherwise, a new member shall be nominated in his place and such member shall hold office so long as the member whose place he fills would have been entitled to hold office if such vacancy had not occurred.

(2) Any casual vacancy under sub-section (1) shall be filled up by the same category to which the former member belonged.

Duties of
State
Committee.

27. (1) It shall be the duty of a State Committee to implement the policy and directions of the Committee in the interests of Haj pilgrims.

(2) The State Committee shall provide assistance to the Haj pilgrims including, in the matter of their transport between their home States and the point of exit from India and their transit accommodation at points of exit.

(3) The State Committee shall discharge such other duties in connection with Haj as may be prescribed by the State Government concerned, in consultation with the Central Government.

Meetings of
State
Committee.

28. (1) A State Committee shall meet at least twice in a year before the Haj day and once after the Haj is over.

(2) The number of members required to make a quorum at any meeting of the State Committee shall be one-third of its members.

(3) In addition to the number of meetings specified in sub-section (1), the State Committee may hold meetings as and when requisitioned by at least one-third of its members or when considered necessary by the Chairperson.

(4) All matters shall be decided by a majority of votes of the members present and, in the event of an equality of votes, the Chairperson or other person presiding shall have a casting vote.

Executive
Officer and
other
employees of
State
Committee.

29. (1) The State Government shall appoint a person, from amongst its officers not below the rank of Under Secretary, to be the Executive Officer of the State Committee:

Provided that the person so appointed shall preferably be a Muslim.

(2) The Executive Officer of the State Committee shall act as its Secretary.

(3) The Executive Officer shall execute the decisions of the State Committee and perform such other functions as may be prescribed.

(4) The State Committee shall, with the previous sanction of the State Government, employ such officers and other employees as it deems necessary to carry out the purposes of this Act.

(5) The term of office and conditions of service of officers and other employees shall be such as may be prescribed.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

Central Haj
Fund.

30. The Committee shall have its own Fund to be called the Central Haj Fund, and there shall be placed to the credit thereof the following sums, namely:—

(a) sums realised from any fees and service charges which may be levied by the Committee:—

(i) for registration of applications for Haj; and

(ii) for issue of Haj pilgrim travel passes;

(b) money collected from pilgrims for performance of Haj;

(c) the income from all deposits and investment of the Committee's funds;

(d) the sums realised from the sale of the effects of deceased pilgrims and sums of money left by them, which are unclaimed and have lapsed to the Government;

(e) any sums loaned by the Central or a State Government, or any other source approved by that Government;

(f) any amount that may be legally due to the Committee from any source; and

(g) the amount standing at the commencement of this Act to the credit of the Haj Fund or the Indigent Pilgrims Fund established under the Haj Committee Act, 1959.

51 of 1959

31. The Central Haj Fund shall, subject to the provisions of this Act and the rules made thereunder, be under the control and management of the Committee, and shall be applied to the following purposes, namely:—

Application
of Central Haj
Fund.

(a) pay and allowances of the Chief Executive Officer and other employees of the Committee;

(b) payment of charges and expenses incidental to the objects specified in section 9;

(c) any other expenses which are required to be met by the Committee or a State Committee, as approved by the Central Government.

32. The State Committee shall have its own fund to be called the State Haj Fund and the following sums shall be placed to the credit thereof, namely:—

State Haj
Fund.

(i) all sums of money paid to it or any grant made by the Committee for the purposes of this Act;

(ii) any grant, or loan that may be made to the State Committee by the State Government, or any other source for the purposes of this Act as approved by the State Government;

(iii) any amount that may be legally due to the State Committee from any sources; and

(iv) the moneys, if any, standing to the credit of a State Haj Committee, at the commencement of this Act.

33. The State Haj Fund shall, subject to any rules that may be made under this Act, be under the control and management of the State Committee and shall be applied to the following purposes, namely:—

Application of
State Haj
Fund

(i) pay and allowances of the employees of the State Committee other than its Executive Officer whose pay and allowances shall be borne by the State Government;

(ii) payment of charges and expenses incidental to the due performance of its duties by the State Committee for the objects specified in section 27; and

(iii) any other expenses, as approved by the State Government which are required to be met by the State Committee.

34. (1) The Committee and every State Committee shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in such form as may be prescribed by the Central Government, or, as the case may be, the State Government.

Accounts and
audit.

(2) The accounts shall be examined and audited annually by such auditors as the Central Government or, as the case may be, the State Government may approve.

(3) The accounts of the Committee or the State Committee as certified by the auditor together with the audit report thereon shall be forwarded annually by the said Committee to the Central Government or, as the case may be, the State Government.

(4) The Central Government shall, as soon as may be after the receipt of the audit report under sub-section (3), cause the same to be laid before both Houses of Parliament.

(5) The State Government shall, as soon as may be, after the receipt of the audit report under sub-section (3), cause the same to be laid before the State Legislature.

CHAPTER V

MISCELLANEOUS

Powers of
Committee to
issue Pilgrim
Passes and levy
fees.

35. (1) The Committee, shall have the power to issue a travel document called "Pilgrim Pass" to a Haj pilgrims for his departure from India as a *bona fide* pilgrim to Saudi Arabia and the said Pilgrim shall be deemed to be exempted from the provisions of section 3 of the Passport Act, 1967.

15 of 1967.

(2) Notwithstanding anything contained in the Passports Act, 1967, the Central Government may, in consultation with the Committee, levy such fees for registration of a Haj pilgrim, issuance of Pilgrim Pass by the Committee and other related matters, as may be prescribed in connection with rendering of such services.

15 of 1967.

Supersession
of Committee.

36. (1) If, in the opinion of the Central Government, the Committee is unable to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act or exceeds or abuses its powers, the Central Government may by an order published, together with a statement of the reasons therefor, in the Official Gazette, supersede it for such period as may be specified in the order:

Provided that before making an order of supersession as aforesaid, the Central Government shall give a reasonable opportunity to the Committee to show cause why it should not be superseded.

(2) When the Committee is superseded by an order under sub-section (1),—

(a) all members shall, on such date as may be specified in the order, vacate their offices as such members without prejudice to their eligibility for nomination under clause (d);

(b) during the period of supersession of the Committee, all powers and duties conferred and imposed upon the Committee by or under this Act shall be exercised and performed by such officer or authority as the Central Government may appoint in that behalf;

(c) all property vested in the Committee shall, until it is reconstituted, vest in the Central Government;

(d) before the expiry of the period of supersession, nominations shall be made by the Central Government for the purpose of reconstituting the Committee.

(3) An order of supersession made under this section together with a statement of the reasons therefor shall be laid before each House of Parliament as soon as may be after it has been made.

(4) A State Government may exercise the same powers and duties in respect of a State Committee as mentioned in sub-sections (1), (2) and (3) of this section subject to the conditions mentioned therein and any directions issued by the Central Government in this regard.

Membership
of Committee
or State
Committee not
to constitute
office of
profit.

37. Notwithstanding anything contained in any other law for the time being in force, the office of a member of the Committee or State Committee shall not be deemed to be an office of profit.

38. No act or proceeding of the Committee or of a State Committee or of a Joint State Committee, as the case may be, shall be invalid by reason only of the existence of any vacancy amongst its members, or any defect in the constitution thereof.

Vacancies, etc., not to invalidate proceedings of Committee.

45 of 1860.

39. The officers and employees of the Committees and other persons duly appointed to discharge any duty under this Act or rules or bye-laws made thereunder, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Officers and employees of Committee to be public servants.

40. No suit, prosecution or other legal proceeding shall lie against the Chairperson, Vice-Chairpersons or any member of the Committee or a State Committee in respect of anything in good faith done or purporting to have been done under this Act, except with the prior permission of the Central or State Government, as the case may be.

Idemity

41. (1) If the Central Government is satisfied that it is necessary or expedient so to do, it may by notification published in the Official Gazette, amend the Schedule and thereupon the Schedule shall be deemed to have been amended accordingly.

Power to amend Schedule

(2) A copy of every notification made under sub-section (1) shall be laid before each House of Parliament as soon as may be after it is made.

42. Any Haj pilgrim, who is aggrieved by the discharge of any of the duties performed by the Haj Committee or the State Haj Committee, shall make a representation for the redressal of his grievance to the Haj Committee or the State Haj Committee, as the case may be, and the same shall be disposed of by the said Committee, if necessary, after hearing the aggrieved person.

Redressal of grievances.

43. (1) On and from the commencement of this Act, all assets, rights, leaseholds, powers, authorities and privileges and all properties, movable and immovable, including lands, buildings, stores, cash balances, cash on hand, reserve funds, investments and all other rights and interests in or arising out of such properties as were immediately before such commencement in the ownership, power or control of Haj Committee, Mumbai, constituted under the Haj Committee Act, 1959 and all books of account, registers and all other documents of whatever nature relating thereto shall vest absolutely in and belong to the Committee.

Vesting of properties and other rights, etc., in Committees.

51 of 1959

(2) On and from the commencement of this Act, all assets, rights, leaseholds, powers, authorities and privileges and all properties, movable and immovable, including lands, buildings, stores, cash balances, cash on hand, reserve funds, investments and all other rights and interests in or arising out of such properties as were immediately before such commencement in the ownership, power or control of Haj Committee of a State and, all books of account, registers and all other documents of whatever nature relating thereto shall vest absolutely in and belong to the Haj Committee of a State.

(3) All debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Committee or a State Committee immediately before such commencement for or in connection with the purposes of the Committee or a State Committee shall be deemed to have been incurred, entered into and engaged to be done by, with, or for the Committee or a State Committee, as the case may be.

(4) All sums of money due to the Committee or a State Committee immediately before such commencement shall be deemed to be due to the Committee or a State Committee, as the case may be.

(5) All contracts made with and all instruments executed on behalf of the Haj Committee, Mumbai or the Haj Committee of a State shall be deemed to have been made or executed on behalf of the Committee, or as the case may be, the State Committee and shall be performed accordingly.

(6) In all suits and legal proceedings pending on the commencement of this Act in or to which the Haj Committee, Mumbai or the Haj Committee of a State was a party, the Committee, or as the case may be, the State Committee shall be deemed to have been substituted therefor.

Power to make rules.

44. (1) The Central Government may, by notification, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, under sub-section (1), such rules may provide for all or any of the following matters, namely:—

(i) the manner of election of members of the Committee, under clause (ii) of section 4;

(ii) the terms and conditions of the Chairperson, Vice-Chairpersons and members under sub-section (2) of section 6;

(iii) the powers and duties of the Chairperson under sub-section (3) of section 7;

(iv) the manner in which the members may be re-nominated under the proviso to sub-section (2) of section 8;

(v) duties in connection with Haj under clause (ix) of sub-section (1) of section 9;

(vi) the functions of the Chief Executive Officer and the terms and conditions of service of the Chief Executive Officer and other employees of the Committee under section 16;

(vii) the number of members of a Joint State Committee or of a Committee for Union territory under the proviso to clause (vi) of sub-section (1) of section 18;

(viii) the manner in which the accounts shall be maintained by the Committee and the State Committees and the audit of such accounts under section 34;

(ix) issue of Haj Pilgrim Pass under sub-section (1) of section 35;

(x) amendment of the schedule relating to the zones comprising contiguous States or Union territories under section 41;

(xi) any other matter which may be prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to make bye-laws.

45. (1) The Committee may, by notification, make bye-laws consistent with the provisions of the Act and the rules made thereunder in respect of the following matters, namely:—

(i) powers and duties of the Vice-Chairpersons under sub-section (4) of section 7;

(ii) providing for the publication of the proceedings of the Committee and any matter of interests to pilgrims under sub-section (1) of section 9;

(iii) laying down the rules of procedure for transaction of business at meeting of the Committee under sub-section (5) of section 10;

(iv) powers and functions of the Standing Committee and determination of number of members and other persons in sub-committees under section 11;

(v) providing for any other matter which the Committee deems necessary for giving effect to the provisions of this Act.

(2) Bye-laws made by the Committee under this section shall be submitted to the Central Government and shall not take effect until they have been confirmed by the Central Government.

(3) Bye-laws which have been confirmed by the Central Government shall be published in the Official Gazette.

46. Subject to the provisions of this Act and the rules made thereunder, the Committee may, by general or special order in writing, with the prior approval of the Central Government, delegate to any member or Chief Executive Officer of the Committee, and subject to such conditions and limitations, as may be specified in the order, such of its powers under this Act (except the powers to make bye-laws under section 45) as it may deem necessary.

Power to
delegate

47. The State Governments may, in consultation with the Central Government, by notification make rules to carry out the purposes of this Act in respect of the State Committees.

Power to make
rules by State
Government

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(i) terms and conditions of the Chairperson and members of the State Committee under sub-section (2) of section 20;

(ii) the manner in which the members may be re-nominated under the proviso to sub-section (2) of section 22;

(iii) duties of the State Committee under sub-section (3) of section 27;

(iv) the functions of the Executive Officer and the terms and conditions of service of officers and other employees under section 29;

(v) any other matter which is required to be or may be prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

48. Every officer and other employee of any of the existing Committee and the State Committee, as the case may be, shall, on and from the commencement of this Act, stand transferred to or become an officer or other employee of the Committee or the State Committee as the case may be, with such designation as such Committee may determine and shall hold office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions of service as he would have held under the Haj Committee constituted under the Haj Committee Act, 1959 and shall continue to do so as an officer or other employee of the Committee till such time the terms and conditions are duly altered by such Committee:

Provisions as
to employ-
ees of the
existing
Committee
before the
commence-
ment of this
Act.

51 of 1959

Provided that the tenure, remuneration and terms and conditions of service of any such officer or other employees of the Committee or of a State Committee, as the case may be, shall not be altered to his disadvantage without the previous sanction of the Central Government or State Government, as the case may be:

Provided further that any service rendered by any such officer or other employee before the commencement of this Act shall be deemed to be the service rendered under the Committee or, as the case may be, the State Committee.

49. No suit, prosecution or other legal proceedings shall lie against the Government or any officer or other employee of the Government or the Committee constituted under this Act in respect of anything which is in good faith done or intended to be done under this Act.

Protection of
action taken in
good faith.

50. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may by order not inconsistent with the provisions of this Act, remove the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Any order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Powers to give directions.

51. The Central Government may, in exercise of its powers and performance of its functions under this Act, issue directions in writing to the Committee or the State Government or the State Committee and such Committee, State Government or State Committee, as the case may be shall be bound to comply with such directions.

Repeal.

52. (1) The Haj Committee Act, 1959 is hereby repealed.

51 of 1959.

(2) Notwithstanding such repeal, the Haj Committee constituted under the said Act shall, until the establishment of the Committee under this Act, continue to function as if this Act had not been passed and on such notification under sub-section (2) of section 5 on the establishment of the Committee, the former Committee shall stand dissolved

(3) Notwithstanding such repeal, anything done or any action taken under the Haj Committee Act, 1959 shall be deemed to have been done or taken under the corresponding provisions of this Act.

51 of 1959.

THE SCHEDULE

(see sections 4 and 41)

ZONE-I.	NATIONAL CAPITAL TERRITORY OF DELHI, RAJASTHAN, JAMMU AND KASHMIR, PUNJAB, HARYANA, HIMACHAL PRADESH AND UNION TERRITORY OF CHANDIGARH.
ZONE-II.	UTTAR PRADESH, BIHAR, UTTARANCHAL AND JHARKHAND.
ZONE-III.	ANDHRA PRADESH, MADHYA PRADESH, CHHATTISGARH AND ORISSA.
ZONE-IV.	ASSAM, WEST BENGAL, TRIPURA, MANIPUR, SIKKIM, MEGHALAYA, ARUNACHAL PRADESH, MIZORAM, NAGALAND AND UNION TERRITORY OF ANDAMAN AND NICOBAR ISLANDS.
ZONE-V.	MAHARASHTRA, GUJARAT, GOA AND UNION TERRITORIES OF DAMAN AND DIU AND DADRA AND NAGAR HAVELI.
ZONE-VI.	TAMIL NADU, KERALA, KARNATAKA AND THE UNION TERRITORIES OF PONDICHERRY AND LAKSHADWEEP.

STATEMENT OF OBJECTS AND REASONS

The Haj Committee Act, 1959 (hereunder referred to as the Act), replaced the Port Haj Committee Act, 1932. The central position given to Bombay in the Act, and the composition and the relatively limited powers of the Haj Committee, as established under the Act, was primarily intended to regulate the selection of Indian pilgrims, and their safe transportation, by ships, from Bombay to Jeddah. The said Act, thus established a Central executive authority to regulate sea, and later air travel between Indian points and Jeddah. In Saudi Arabia, the Indian Embassy in Jeddah, which was replaced by the Indian Consulate General from 1984, continued to have full responsibility for all aspects of Haj management. The Government of India, through the Ministry of External Affairs, were, in consequence responsible for all aspects of Haj management in India and Saudi Arabia.

2. Uptill mid-1960's, all Indian pilgrims going for Haj travelled by sea from the Port of Bombay. After that, the number of pilgrims travelling by air gradually increased until, in 1995, travel of pilgrims by sea was discontinued, and all Haj pilgrims began to go by air on chartered flights. During the year 1999, these flights embarked from five points in India, that is, Mumbai, Calcutta, Delhi, Chennai and Bangalore; and efforts were made at that time to add other points as soon as additional facilities for handling international passengers become available. Thus, for the Haj-2000, Cochin and Ahmedabad have also been added as embarkation points for Haj pilgrims.

3. Uptill the year 1981, all intending pilgrims were required to send their applications to the Haj Committee, Bombay which selected the pilgrims by a draw of lots, also called "Qurrah". Subsequently, this selection was decentralised, and State Haj Committees were asked to conduct their respective "Quarrah". They were also given greater participation in Haj management in such areas as pre-embarkation arrangements, transportation to embarkation points and provision for camp facilities at such points. Thus, from the year 2000, the primary responsibility for training and orientation of pilgrims has also been entrusted to State Haj Committees.

4. Since the Haj Committee Act, 1959 is more than forty years old, and since important changes in matters relating to Haj, including those mentioned above, have made the Act obsolete, it no longer serves current needs. Some additional and important developments in this regard are:—

(i) The number of Indian pilgrims who perform Haj through the Committee has increased from about 24,000 in the year 1992 to 72,000 in the year 2000. This has presented new management challenges to the Haj Committee.

(ii) The composition of the Haj Committee, as provided in the Act is unrepresentative in nature. It gives primary importance to Maharashtra, and specifically to Mumbai in the areas of Haj management; this is no longer tenable. Further, Haj sailings were reduced to three in 1984, and were finally ended in 1995. Now, the movement of all Haj pilgrims is by air from different points in India.

(iii) Over the last forty years, from time to time questions have been raised in different quarters regarding the respective powers and responsibilities of the Central and State Governments and of the Haj Committee. Again, over the last few years, complaints have been received by the Central Government regarding the mismanagement of its finances by the Haj Committee. These developments have emphasised the importance of ensuring that the new legislation relating to Haj should clearly define the authority of the Central and State Governments in the area of Haj

policy and management, as also provide for a reformed and representative Haj Committee, with an effective mechanism to ensure financial propriety, and above all, eliminate ambiguities relating to jurisdictional matters.

5. The Bill seeks to repeal and re-enact the Haj Committee Act, 1959 so as to achieve the above objects.

JASWANT SINGH.

Notes on clauses

Clause 1 contains short title and commencement of the Bill.

Clause 2 pertains to definitions of the term "Committee", "State Committee", "member", "pilgrim", etc., in the context of the Bill.

Clause 3 makes provision for constitution and incorporation of the Haj Committee of India which shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property, to create a charitable trust or endowment and may by the said name sue and be sued like any other statutory body constituted under an Act of Parliament.

Clause 4 provides for the composition of the Committee which include nominated Members from Parliament, representatives from the State Haj Committees, officials from the Central Government and six Muslim members having special knowledge of public administration, finance, education, culture, social work or Muslim theology and nominated by the Central Government. The Committee shall have at least one woman as its member.

Clause 5 provides that the nomination of members shall be notified in the Official Gazette.

Clause 6 deals with the term of office of the members of the Committee which shall not be less than three years. It may be extended by the Central Government by a notification for a period not exceeding six months at a time but in no case the term may be extended beyond a total period of one year.

Clause 7 makes provision for the election of a Chairperson and Vice-Chairpersons of the Committee from amongst its members and in case the Committee fails to elect the Chairperson and Vice-Chairpersons, the Central Government may appoint a member of the Committee to be Chairperson or Vice-Chairperson. It has been provided that the Central Government may make rules so as to provide for the powers and duties of the Chairperson. In case of Vice-Chairpersons the powers and duties shall be determined by bye-laws made by the Committee itself. It also makes provision for the term of their office as three years and makes it clear that they cannot hold the said office for more than two consecutive terms.

Clause 8 contains provision for the reconstitution of the new Committee at least four months before the expiry of the term or the extended term of the existing Committee. This is being proposed to avoid any gap between the new Committee and the existing Committee. It is also proposed to restrict the renomination of the outgoing members to the Committee for not more than two terms and in no case the number of members renominated under this clause shall exceed more than fifty per cent. of the total membership of the Committee.

Clause 9 contains details of the duties of the Committee which, *inter alia*, include—

(i) collection and dissemination of information useful to pilgrims and arrangement of training programmes for them;

(ii) assistance to pilgrims during their stay at the embarkation points in all matters including vaccination, inoculation, medical examination, issue of pilgrim passes and foreign exchange to them;

(iii) giving relief to indigent pilgrims;

(iv) finalisation of the annual Haj Plan and execution of the Plan.

The Committee is also entrusted with the duties of negotiating with the railways, airways, etc., so as to look after the welfare of the pilgrims. It shall discharge such other duties in connection with Haj as may be provided under the rules made by the Central Government. The Central Government is also required to afford all reasonable assistance to the Committee in discharge of its duties.

Clause 10 contains provision for meetings of the Committee and makes it mandatory that it shall meet at least three times in a year initially before the commencement of the Haj seasons and once after the Haj is over so as to review arrangements made by the Committee. A meeting may be called either when it is requisitioned by atleast one-third of its members or when the Chairperson considers it necessary. For the transaction of business at its meeting, the Committee will observe such rules of procedure as may be determined by bye-laws made by such Committee.

Clause 11 contains provision for appointment of standing committee and sub-committees which shall deal with matters relating to finance, transport and pilgrim's welfare.

Clause 12 contains provision for disqualifications for being appointed or for continuing as a member of the Committee.

Clause 13 relates to resignation of Chairperson, Vice-Chairpersons and other members.

Clause 14 contains provision for removal of Chairperson, Vice-Chairpersons and members and stipulates that for certain acts of commission or omission the Chairperson, Vice-Chairperson or a member of the Committee may be removed.

Clause 15 provides for the filling up of a casual vacancy when such vacancy is caused by the removal, resignation or death of a member.

Clause 16 provides for the appointment of the Chief Executive Officer of the Committee from the panel of Muslim Officers of the Central Government/State Governments holding a post of not below the rank of Deputy Secretary to the Government of India. Initially, the appointment shall be made for a period of three years, which may be extended by a maximum period of one year by the Central Government. The Chief Executive Officer shall be responsible for the execution of decisions of the Committee and such other functions as may be provided in the rules made by the Central Government.

Clause 17 makes provision for the establishment and incorporation of the State Haj Committee by the State Government and in case where it appears to the Central Government that it is not possible for a State or a Union territory to establish a Haj Committee, it may authorise the State Haj Committee of a contiguous State to deal with those pilgrims. Two or more contiguous States may enter into an agreement and may set up a joint State Haj Committee to deal with the Haj pilgrims of such States.

Clause 18 pertains to the composition of the State Haj Committees which include representatives from Muslim members of Parliament, State Legislative Assembly, Legislative Council (if any), and from the local bodies. Other members of the State Haj Committee will be the persons having expertise in Muslim theology and law and the representatives of the voluntary organisations working in the field of public administration, finance, education, culture or social work who may be nominated by the State Government.

Clause 19 provides that the nomination of members shall be notified in the Official Gazette of the State.

Clause 20 provides for the term of office of the members of the State Haj Committees, allowances payable to such members and other terms and conditions of such members which are to be provided by the rules made by the State Government.

Clause 21 stipulates that the Chairperson shall be elected in the first meeting of the State Committee from amongst its members and if the members fail to elect the Chairperson, the State Government may appoint a member of the State Committee as its Chairperson. It is also provided that the term of office of the Chairperson shall be for three years and no person shall hold the office of the Chairperson for more than two consecutive terms.

Clause 22 pertains to the reconstitution of a State Haj Committee and provides that all necessary steps for the reconstitution of a new State Committee shall be taken at least four months before the expiry of the term of the existing Committee. It also provides for renomination of an outgoing member with a condition that it shall not be for more than two terms and in no case the number of members renominated under this clause shall exceed more than fifty per cent. of the total membership of the Committee.

Clause 23 contains provision for disqualifications for being appointed or for continuing as a member of the State Committee.

Clause 24 relates to resignation of Chairperson and members.

Clause 25 contains provision for removal of Chairperson and members and stipulates that for certain acts of commission or omission that Chairperson or a member of the State Committee may be removed.

Clause 26 provides for the filling up of a casual vacancy when such vacancy is caused by the removal, resignation or death of a member.

Clause 27 enumerates the duties of the State Haj Committee and makes it mandatory to implement the policy and directions of the Committee in the interests of Haj pilgrims. It has also been made mandatory for the State Committee to provide assistance, such as transport or transit accommodation, to the Haj pilgrims. The State Government has also been authorised to make rules in consultation with the Central Government for other duties of the State Committee in connection with Haj.

Clause 28 provides that a State Committee shall meet at least twice in a year initially before the Haj day and once after the Haj is over. A meeting may be convened either when it is requisitioned by at least one-third of the members of the State Committee or when the Chairperson considers it necessary. All matters in a meeting are to be decided by majority of the members present in such meeting.

Clause 29 makes provision for the appointment of the Executive Officer and other employees of the State Haj Committee. The Executive Officer shall act as Secretary of the Committee.

Clause 30 makes provision for the Central Haj Fund in which the sums realised on account of registration of Haj pilgrims, issue of Haj pilgrim travel passes to such pilgrims, money collected from pilgrims for performance of Haj, income from deposits and investments from the funds of the Committee shall be credited. Any sums loaned by the Central or a State Government, or any other source which is approved by that Government and the amount standing at the credit of the Haj fund or the Indigent Pilgrims Fund established under the Haj Committee Act, 1959 shall also form part of the Central Haj Fund.

Clause 31 enumerates the purposes for which the Central Haj Fund shall be applied. This fund shall be mainly applied for the payment of charges and expenses incidental to the objects specified in clause 9 of the Bill and towards the pay and allowances of the Chief Executive Officer and other employees of the Committee or such other expenses of the Committee or a State Committee as may be approved by the Central Government.

Clause 32 makes provision for the State Haj Fund of the State Committee. Any grant or loan that may be made to the State Committee by the State Government or any other source as approved by the State Government shall be credited in such Fund. Haj Committee of India may also make grant to the State Haj Fund.

Clause 33 enumerates the purposes for which the State Haj Fund shall be applied by the State Haj Committee. The application of the State Haj Fund will be mainly for payment of charges and expenses incidental to the due performance of its duties by the State Committee for the objects specified in clause 27 of the Bill. The fund will also be used towards the payment of the pay and allowances of the employees of the State Haj Committee, other than its Executive Officer whose pay and allowances will be borne by the State Government.

Clause 34 requires that the Committee and every State Haj Committee shall maintain proper accounts. The accounts shall be audited by such auditors as the Central Government or as the case may be, the State Government, may approve.

Clause 35 empowers the Committee to issue a travel document to a Haj pilgrim for the purposes of Haj. Pilgrim pass to a Haj pilgrim shall be used only for his departure from India to Saudi Arabia and back to India. Since the subject matter of passports is regulated under the provisions of the Passports Act, 1967, it has been considered necessary to exempt the Haj pilgrims from the provisions of section 3 of the said Act to facilitate the issuance of Pilgrim Passes to them. It has also been provided that the Central Government may, in consultation with the Committee, levy fees for registration of a Haj pilgrim, for the issuance of a Pilgrim Pass and for other related matters in connection with rendering of services to the Haj pilgrims.

Clause 36 empowers the Central Government to cause supersession of the Committee if the Committee is unable to perform or persistently makes defaults in performance of the duties imposed under this Bill.

Clause 37 makes provision that the office of the member of the State Committee shall not be deemed to be an office of profit so as not to disqualify such person from being a member of Parliament or of the State Legislature.

Clause 38 provides that the act or proceeding of the Committee or of a State Committee or of a Joint State Committee shall not become invalid owing to any vacancy or defect in their constitution.

Clause 39 provides that the officers and other employees of the Committees shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 40 contains provision that no suit, prosecution or other legal proceeding for the action taken in good faith shall lie against the Chairperson, Vice-Chairpersons or any member of the Committees, without the prior approval of the Central Government or of the State Government, as the case may be.

Clause 41 empowers the Central Government to amend the Schedule of Zones which will be represented on the Central Haj Committee, as the composition of the Committee includes representatives from such Zones also.

Clause 42 provides for redressal of grievances. A Haj pilgrim who is aggrieved by the actions of the Haj Committee or of the State Haj Committee shall make a representation for the redressal of his grievance to the Haj Committee or the State Haj Committee, as the case may be, and the same will be disposed of by the said Committee, after hearing the aggrieved person.

Clause 43 provides for the vesting of properties and other existing rights and liabilities of the existing Haj Committee constituted under the Haj Committee Act, 1959 in the Committee or in the State Haj Committee, as the case may be, proposed to be constituted by clause 3 and clause 17 of the Bill.

Clause 44 empowers the Central Government to make rules to carry out the purposes of this Bill with respect to subjects enumerated under this clause.

Clause 45 empowers the Committee to make bye-laws in respect of the subjects specified under this clause.

Clause 46 contains provision for delegation of powers by the Committee to Chief Executive Officer or any Member thereof with the prior approval of the Central Government.

Clause 47 empowers the State Government to make rules in consultation with the Central Government to carry out the purposes of this Bill with respect to subjects enumerated under this clause.

Clause 48 contains provisions as to the transfer of the employees of the existing Committees as employees of the proposed Committee or of the State Committee, as the case may be. It also makes provision for the protection of the tenure, remuneration, and terms and conditions of the service of such persons which will not be altered to their disadvantage without the previous sanction of the Central Government or, as the case may be, of the State Government.

Clause 49 makes provision for protection of action taken in good faith.

Clause 50 contains powers of the Central Government to remove the difficulties in giving effect to the provisions of this Bill within a period of two years from the commencement of the proposed legislation.

Clause 51 empowers the Central Government to issue directions in the exercise of its powers and performance of its functions under this Bill, to the Committee or to the State Government or to the State Committee.

Clause 52 provides for repeal of the Haj Committee Act, 1959 and makes provision for saving of actions taken under that Act.

Schedule contains provision for dividing the States of the Union into different Zones, which relates to representation of the State Committees in the composition of the Central Haj Committee.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 44 empowers the Central Government to make rules generally for carrying out the purposes of the Bill. Sub-clause (2) of clause 44 enumerates various matters in respect of which rules may be made. These matters relate, amongst others, to election, nomination, disqualification, resignation, etc., of the members of the Committee, filling up of casual vacancies in the office of Chairperson or other members, the term of office of the Chairperson and his powers and duties. It also relates to accounts to be kept by the Committee and their audit; issuance of pilgrim pass by the Committee and levy of fees for registration of a Haj pilgrim.

2. Sub-clause (1) of clause 47 empowers the State Government to make rules in consultation with the Central Government for carrying out the purposes of the Bill in respect to the State Committees. Sub-clause (2) enumerates various matters in respect of which rules may be made by the State Governments. These matters relate, amongst others, the terms and conditions of the Chairperson and Members of the State Committee, duties of the State Committee, the functions of the executive officer of the State Committee and the terms and conditions of service of officers and other employees of the State Committee.

3. Clause 45 empowers the Haj Committee to make bye-laws which are not inconsistent with the provisions of the Bill or the rules made thereunder in regard to powers and duties of the Vice-Chairperson, publications of the proceedings of the Committee, laying down the rules of procedure for transaction of business at meeting of the Committee, powers and functions of the Standing Committee and determination of number of members and other persons in the sub-Committees and any other matter considered necessary for giving effect to the provisions of the Bill. The bye-laws which are to be made by the Committee shall be subject to confirmation by the Central Government.

4. The rules and bye-laws will thus be confined to matters of procedure and the delegation of legislative powers to the Central Government, State Government and to the Committee is of a normal type.

R. C. TRIPATHI,
Secretary-General.

